

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Evelis Otero	Team: Team # 3	CCRB Case #: 201012668	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 09/13/2010 1:12 AM	Location of Incident: § 87(2)(b) and § 87(2)(b) and inside 113th Precinct stationhouse	Precinct: 113	18 Mo. SOL 3/13/2012	EO SOL 3/13/2012	
Date/Time CV Reported Thu, 09/16/2010 3:29 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/16/2010 3:29 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Burt Antoine	23618	939877	113 PCT
2. POF Shannon Pearl	24161	907028	113 PCT
3. An officer			113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Burt Antoine	Abuse: PO Burt Antoine stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants at § 87(2)(b) and § 87(2)(b) in Queens.	
B.POF Shannon Pearl	Abuse: PO Shannon Pearl stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants at § 87(2)(b) and § 87(2)(b) in Queens.	
C.POF Shannon Pearl	Abuse: PO Shannon Pearl searched the car in which § 87(2)(b) and § 87(2)(b) were occupants at § 87(2)(b) and § 87(2)(b) in Queens.	
D.POF Shannon Pearl	Abuse: PO Shannon Pearl strip-searched § 87(2)(b) inside of the 113th Precinct Stationhouse.	
E. An officer	Abuse: An officer threatened an individual with the use of force.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On September 16, 2010, § 87(2)(b) filed a complaint via telephone with the CCRB (enc. 14-16). On September 13, 2010, at approximately 1:12am, § 87(2)(b) and her friend, § 87(2)(b) were arrested by PO Burt Antoine of the 113th Precinct in the vicinity of § 87(2)(b) and § 87(2)(b) in Queens. The following allegations resulted from the officer's actions:

- **Allegation A – Abuse of Authority: PO Burt Antoine stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants at § 87(2)(b) and § 87(2)(b) in Queens.**
- **Allegation B– Abuse of Authority: PO Shannon Pearl stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants at § 87(2)(b) and § 87(2)(b) in Queens.**
- **Allegation C – Abuse of Authority: PO Shannon Pearl searched the car in which § 87(2)(b) and § 87(2)(b) were occupants at § 87(2)(b) and § 87(2)(b) in Queens.**
- **Allegation D – Abuse of Authority: PO Shannon Pearl strip-searched § 87(2)(b) inside of the 113th Precinct Stationhouse.**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation E – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force inside of the 113th Precinct Stationhouse.**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- § 87(2)(g), § 87(4-b)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Results of Investigation

Civilian Statements

Complaint/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) Black female who is 5' 3" tall, weighs 125 pounds and has brown hair and brown eyes.

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on October 14, 2010 (enc. 17-21). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

On September 13, 2010, at approximately 1:12am, § 87(2)(b) was inside of her friend's, § 87(2)(b)'s, vehicle, which is a 2008 or 2009 dark blue 300 Chrysler that does not have tinted windows. Also inside of the vehicle was § 87(2)(b)'s dog, which is a Yorkie. § 87(2)(b) and § 87(2)(b) had left § 87(2)(b)'s residence, located at § 87(2)(b) in Queens prior to this incident and they were on their way to a local store. § 87(2)(b) was driving in the vicinity of § 87(2)(b) and § 87(2)(b) in Queens, when she reached a stop sign. § 87(2)(b) stopped and adjusted the

vehicle's GPS. § 87(2)(b) was not familiar with the area because she is from North Carolina and had come to visit § 87(2)(b) for a few days with another friend. § 87(2)(b) remained at the stop sign for less than a minute as she adjusted the GPS.

§ 87(2)(b) instructed § 87(2)(b) to stop adjusting the GPS and to move because she was blocking traffic. A blue or green Altima pulled up alongside § 87(2)(b)'s vehicle before she was able to drive away. Inside of the vehicle was a male and a female, who § 87(2)(b) learned later were two uniformed officers. § 87(2)(b) could not see them clearly when they pulled up and was unaware that they were officers at the time. The officers looked at § 87(2)(b) and § 87(2)(b). § 87(2)(b) drove away, made a turn and stopped at a red light. The officers followed and turned on their lights, signaling them to stop, which they did. Two officers, identified via the investigation as PO Shannon Pearl and PO Burt Antoine of the 113th Precinct, exited their vehicle and approached § 87(2)(b)'s vehicle.

PO Pearl approached the driver's side and spoke with § 87(2)(b). PO Pearl asked her why she remained at the stop sign for a long time. § 87(2)(b) who was nervous, thought the officer was asking her why she had stopped at the red light and replied, "Because the light is red." PO Pearl asked her again why she had remained a long time at the stop sign and § 87(2)(b) informed her that she was adjusting her GPS. PO Pearl asked her where she was headed and § 87(2)(b) informed her that she was going to a local store. PO Pearl asked why she needed a GPS for store which was only 2 minutes away. PO Pearl also asked § 87(2)(b) who was nervous and being inconsistent with her responses, if she was "high." Afterwards, PO Pearl instructed § 87(2)(b) to step out of the vehicle and frisked her. PO Pearl then instructed § 87(2)(b) to step to the back of her vehicle and instructed § 87(2)(b) to step out as well. PO Pearl frisked § 87(2)(b) patting down her waist and legs and squeezing her pockets but never entering them. PO Pearl also instructed § 87(2)(b) to step to the rear of the vehicle. PO Antoine remained with § 87(2)(b) and § 87(2)(b) at the rear of the vehicle.

PO Pearl opened the vehicle doors, reached inside and searched the seats. § 87(2)(b)'s dog was given to § 87(2)(b) and she zipped the dog up in her jacket. PO Pearl recovered nothing from the search. PO Pearl then asked § 87(2)(b) if she had a driver's license, which she did not because she does not drive. PO Pearl explained that if she did, she would have allowed § 87(2)(b) to drive the vehicle away. PO Pearl then instructed PO Antoine to handcuff § 87(2)(b) and § 87(2)(b). § 87(2)(b) continually asked why she was being arrested but the officers would not explain why. PO Pearl then searched the vehicle a second time, still recovering nothing. PO Pearl went over the radio and additional officers, who § 87(2)(b) could not describe, arrived on the scene. One of the unidentified officers drove § 87(2)(b)'s vehicle to the stationhouse. § 87(2)(b) and § 87(2)(b) were then transported to the stationhouse.

Upon arriving at the stationhouse, § 87(2)(b) was brought to the desk. § 87(2)(b) asked an unidentified officer at the desk, PO1 (White, male, heavysset, 6'0" tall, 40s in age, dark hair, white shirt, uniform), why she was under arrest. PO1 was unable to provide any information to § 87(2)(b) regarding her arrest; however, he informed § 87(2)(b) that if she did not have any active warrants, she would be allowed to leave with a Desk Appearance Ticket. Afterwards, § 87(2)(b) was brought to a bathroom by PO Pearl. An unidentified female officer, PO2, was also present in the bathroom. PO Pearl instructed § 87(2)(b) to remove her clothing, which she did. The bathroom door remained open and officers who were passing by were able to see § 87(2)(b) who was completely naked. PO Pearl laughed and said, "They're looking at her titties." PO Pearl instructed § 87(2)(b) to squat multiple times. § 87(2)(b) had marijuana concealed in her vagina, which started to come out when she squatted. PO Pearl noticed it and asked her what it was. § 87(2)(b) informed PO Pearl that it was marijuana. PO Pearl left the bathroom and retrieved a blue glove. PO Pearl was about to reach for the marijuana, which was still lodged in § 87(2)(b)'s vagina, but § 87(2)(b) did not allow her to do so. § 87(2)(b) offered to take it out herself, which she did, and after doing so, she gave it to PO Pearl. PO Pearl said, "I knew someone was smoking the good shit." § 87(2)(b) was then placed in a holding cell.

§ 87(2)(b) observed an unidentified Black male, who was also in the holding cell, request to use the restroom. This young Black male appeared to be in his 20s and he wore a grey hooded sweatshirt and jeans. An officer, PO3 (White, male, tall, slim build, short hair, 20s-30s in age, uniformed) instructed the

individual to sit down, but he refused. PO3 said, “If you don’t sit down, I’m going to punch you.” Shortly thereafter, § 87(2)(b) was taken to Queens Central Booking. § 87(2)(b) encountered the aforesaid individual in her neighborhood sometime after the incident. § 87(2)(b) did not obtain his name or contact information; however, he informed her that he lived nearby, on § 87(2)(b). They spoke about the incident and parted ways. § 87(2)(b) informed § 87(2)(b) after the incident that officers found cocaine in her wallet. § 87(2)(b) returned to North Carolina after the incident. § 87(2)(b) did not have additional contact information for § 87(2)(b) other than the phone number she provided when she filed this complaint.

Attempts to Identify and Locate Additional Witnesses and Victims

- § 87(2)(b) identified § 87(2)(b) as a victim for this incident. The investigator called § 87(2)(b) on September 20, 2010. A detailed message was left. A letter was mailed to § 87(2)(b) on the same day, instructing her to contact the investigator. The letter was returned to the CCRB marked as undeliverable. A search of the NYS DMV Dial-in site revealed another possible address for § 87(2)(b). A letter was mailed to the aforesaid address on September 20, 2010. A subsequent call was made to § 87(2)(b) on September 23, 2010, but the number was disconnected. A search of Whitepages.com yielded negative results. A search of Lexis Nexis revealed another possible address for § 87(2)(b). Two letters were mailed to the aforesaid address. The letters were not returned to the CCRB. A search of the NYC DOC Inmate Lookup Service was conducted on January 7, 2011, which yielded negative results. To date, the CCRB has been unable to reach § 87(2)(b).
- § 87(2)(b) stated that an unidentified officer threatened to punch an unidentified Black male who was in the holding cell. § 87(2)(b) stated that the Black male appeared to be in his § 87(2)(b) and wore a grey hooded sweatshirt and jeans. § 87(2)(b) did not know the aforesaid individual’s name or contact information. A search of BADS revealed nine males, § 87(2)(b), who were arrested on September 12, 2010, and § 87(2)(b), who were arrested on September 13, 2010, all of whom could be the potential victim. The 113th Precinct’s Prisoner Holding Pen Roster (enc. 46-47) revealed that § 87(2)(b) and § 87(2)(b) were the only two males in the holding cell at the time § 87(2)(b) was in police custody. However, the CCRB obtained negative results for both the arrest photographs and movement slips for the aforesaid individuals. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g).

NYPD Statements

Subject Officer: PO SHANNON PEARL

- *PO Pearl is a § 87(2)(b)-old Black female who is 5’ 1” tall, weighs 130 pounds and has brown hair and brown eyes.*
- *On the day of the incident, PO Pearl was assigned to operation impact at the 113th Precinct. She worked in uniform from 7:35pm on September 12, 2010 to 4:05am to September 13, 2010, with PO Burt Antoine.*

Memo Book

PO Pearl did not have any memo book entries regarding this incident (enc. 30-31); however, PO Pearl noted that she was assigned to operation impact from 7:35pm on September 12, 2010 to 4:05am to September 13, 2010.

CCRB Testimony

PO Shannon Pearl was interviewed at the CCRB on November 30, 2010 (enc. 32-33). On September 13, 2010, PO Pearl and PO Antoine were driving in the vicinity of § 87(2)(b) and § 87(2)(b) in Queens when they observed two individuals, later identified as § 87(2)(b) and § 87(2)(b) inside of a vehicle. § 87(2)(b) was the driver of the vehicle and they were stopped at a stop sign as § 87(2)(b) adjusted the GPS for approximately one minute. Once § 87(2)(b) finished adjusting the GPS, she made a turn and stopped at a red light. The officers pulled up alongside § 87(2)(b)'s vehicle, which had an out-of-state license plate. PO Pearl could not recall what type of vehicle it was. § 87(2)(b) put on her right signal and continued straight instead of turning right. PO Pearl suspected that § 87(2)(b) was either lost or intoxicated, so the officers pulled her over to see if everything was ok.

PO Pearl approached the driver's side and PO Antoine approached the passenger side. PO Pearl instructed § 87(2)(b) to lower her windows, which she did and upon doing so PO Pearl smelled a strong scent of marijuana. PO Pearl shone her flashlight into the vehicle and observed marijuana "blunt" on top of the center console in plain view. PO Pearl asked § 87(2)(b) for her license, registration and insurance. § 87(2)(b) was "hyper" and nervous and looked through her purse and the glove compartment for these documents. § 87(2)(b) then informed PO Pearl that she did not have these documents. § 87(2)(b) instructed § 87(2)(b) to "calm down." PO Pearl asked § 87(2)(b) for her identification, which she provided upon request. PO Pearl instructed § 87(2)(b) to exit the vehicle and she complied. § 87(2)(b) could not understand why she was being asked to step out of the vehicle. PO Pearl deemed both § 87(2)(b) and § 87(2)(b) to be under arrest at this time. PO Pearl frisked § 87(2)(b) and handcuffed her. PO Pearl also instructed § 87(2)(b) to exit the vehicle, which she did. PO Pearl frisked § 87(2)(b) and placed her under arrest. There was a small dog in the vehicle, which she handed to one of the females. This female, identified via the investigation as § 87(2)(b) held the dog in her jacket. PO Pearl grabbed the marijuana from the center console but did not search the vehicle until it was brought to the precinct. Cocaine was recovered from § 87(2)(b)'s purse but PO Pearl could not recall who searched the purse. The officers transported § 87(2)(b) and § 87(2)(b) to the 113th Precinct Stationhouse.

At the stationhouse, § 87(2)(b) and § 87(2)(b) were strip-searched by PO Pearl. PO Pearl stated that the desk sergeant authorized the strip-search but she could not recall who the desk sergeant was. PO Pearl believed that § 87(2)(b) was concealing contraband because of the narcotics that were recovered from the vehicle and the purse. PO Pearl could not recall who authorized the strip-search. Marijuana was recovered from § 87(2)(b)'s vagina, which § 87(2)(b) removed herself and handed it to PO Pearl. PO Pearl did not observe an officer threaten to punch a prisoner in the holding cell.

Witness Officer: PO BURT ANTOINE

- *PO Antoine is a § 87(2)(b)-old Black male who is 5' 6" tall, weighs 160 pounds and has black hair and brown eyes.*
- *On the day of the incident, PO Antoine was assigned to operation impact at the 113th Precinct. He worked in uniform from 7:35pm on September 12, 2010 to 4:05am on September 13, 2010, with PO Shannon Pearl.*

Arrest Reports

PO Antoine completed the arrest report for § 87(2)(b) which states, "At the time and place of occurrence defendant was found in possession of a quantity of marijuana. Strip-search conducted, positive results (enc. 22-23)." § 87(2)(b) was charged with § 87(2)(b). PO Antoine also completed the arrest report for § 87(2)(b) which states, "At the time and place of occurrence defendant was found in possession of a quantity of marijuana and crack/cocaine (enc. 24-25)." § 87(2)(b) was charged with § 87(2)(b).

Memo Book

PO Antoine's memo book notes verbatim that: "At 1:12am, two arrests at § 87(2)(b) and § 87(2)(b)

Defendant # 1: § 87(2)(b) § 87(2)(b) § 87(2)(b). DOB: § 87(2)(b) Charge: § 87(2)(b) Arrest # § 87(2)(b) Defendant # 2: § 87(2)(b) § 87(2)(b) § 87(2)(b). DOB: § 87(2)(b) Charge: § 87(2)(b) Arrest # § 87(2)(b) (enc. 26-27)."

CCRB Testimony

PO Burt Antoine was interviewed at the CCRB on November 16, 2010 (enc. 28-29). § 87(2)(g)

PO Pearl searched the grab-able area in the vehicle and retrieved three cocaine "twists" inside of § 87(2)(b)'s purse. PO Antoine had difficulty describing the cocaine "twists."

At the stationhouse, § 87(2)(b) was strip-searched by PO Pearl inside of a prisoner bathroom. PO Antoine stated that the desk sergeant authorized the strip-search but he could not recall who the desk sergeant was. The officers believed that § 87(2)(b) was concealing contraband because of her demeanor throughout the incident. In addition, § 87(2)(b) continually denied being in possession of any contraband. Marijuana was recovered from § 87(2)(b)'s person. PO Antoine did not observe an officer threaten to punch a prisoner in the holding cell.

NYPD Documents

113th Precinct Command Log

According to the command log for September 13, 2010 (enc. 42), § 87(2)(b) and § 87(2)(b) were lodged into the 113th Precinct stationhouse at 1:10am. Their physical and mental conditions were noted as apparently normal. There is a notation in the command log regarding the strip-search of § 87(2)(b) which indicates that marijuana was recovered.

Property Vouchers

Property Voucher numbers § 87(2)(b) and § 87(2)(b) (enc. 43-44) prepared by PO Antoine for § 87(2)(b) indicates that a burnt marijuana cigarette, one green ziplock containing cocaine, two plastic twists containing cocaine and one plastic twist containing cocaine residue were recovered. Property Voucher number § 87(2)(b) (enc. 45) prepared by PO Antoine for § 87(2)(b) indicates that a piece of paper containing marijuana was recovered.

Disposition of Arrests for Incident

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

CCRB History of Civilian

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (enc. 12-13).

CCRB History of Subject Officers

- PO Antoine has been a member of the service for 4 years and there are no substantiated CCRB allegations against him (enc. 9).

- PO Pearl has had 4 substantiated CCRB allegations against her in her 13 years of service with the NYPD (enc. 10-11). In CCRB Case number 200407075, the allegations were abuse of authority (vehicle stopped, vehicle searched and frisk) and discourtesy (action). The NYPD disposition was instructions. In CCRB Case number 200410823, the allegation was abuse of authority (refusal to provide name/shield number). The NYPD disposition was instructions.

Conclusion

Investigative Findings and Recommendations

Identification of Subject Officers

- PO Pearl acknowledged that she interacted with § 87(2)(b) and § 87(2)(b)

Allegation A – Abuse of Authority: PO Burt Antoine stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants at § 87(2)(b) and § 87(2)(b) in Queens.

Allegation B – Abuse of Authority: PO Shannon Pearl stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants at § 87(2)(b) and § 87(2)(b) in Queens.

Allegation C – Abuse of Authority: PO Shannon Pearl searched the car in which § 87(2)(b) and § 87(2)(b) were occupants at § 87(2)(b) and § 87(2)(b) in Queens.

It is undisputed that PO Pearl and PO Antoine stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants because they believed that they were lost or otherwise needed assistance. It is also undisputed that PO Pearl searched the vehicle. According to both officers, they smelled a strong scent of marijuana coming from the vehicle and they observed a marijuana cigarette on top of the center console in plain view.

According to People v. Kevin Johnson, 25 Misc. 3d 1214A (2009) (enc. 1-3) states that “the smell of marijuana alone is sufficient to provide police who are trained and experienced in the use of marijuana, with probable cause to search a vehicle and its occupants.”

§ 87(2)(g)

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Allegation D – Abuse of Authority: PO Shannon Pearl strip-searched § 87(2)(b) inside of the 113th Precinct Stationhouse.

It is undisputed that § 87(2)(b) was strip-searched by PO Pearl and that § 87(2)(b) was concealing marijuana inside of her vagina. PO Pearl recovered drugs from § 87(2)(b)'s vehicle and purse and noted that both females appeared to be “high” and nervous. § 87(2)(g)

_____ According to NYPD Patrol Guide procedure 208-05 (enc. 4-5), “a strip-search will be conducted when the arresting officer reasonably suspects that weapons, contraband or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods.” § 87(2)(g) _____.

Allegation E – Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.

§ 87(2)(g)

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§ 87(2)(g), § 87(4-b)

Team: 3

Investigator:	<u>Evelis Otero</u>	<u>01/07/11</u>
	Signature	Date

Supervisor:	<u></u>	<u></u>
	Title/Signature	Date

Reviewer:	<u></u>	<u></u>
	Title/Signature	Date

Reviewer:	<u></u>	<u></u>
	Title/Signature	Date